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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,410	01/21/2004	Daniel L. Gysling	CC-0703	4899

7590 10/04/2004

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EXAMINER
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MACK, COREY D

ART UNIT	PAPER NUMBER
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2855

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/762,410

Applicant(s)

GYSLING ET AL.

Examiner

Corey D. Mack

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-8 is/are rejected.
- 7) ☒ Claim(s) 4 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 4, 6, 8 and 9 are objected to because of the following informalities:
  - A. Claim 4 cites the “k-w plane” in line 2. It appears that this should be the --k- $\omega$  plane--
  - B. Claim 6 fails to end in a period (.) as required.
  - C. Claims 8 and 9 are methods that depend from Claim 1, which is an apparatus. It appears that Claims 8 and 9 should depend from method Claim 5. For the purposes of this examination, it is assumed that Claims 8 and 9 were intended to depend from Claim 5. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Letton, et al. (US 6,209,388).
  - A. With respect to Claims 1, 5 and 6, Letton discloses an apparatus and method for measuring the gas volume fraction in a pipe, comprising: at least one sensor 820, 830 for providing a sound measurement signal 810 indicative of the speed of sound propagating within the pipe 805; and, a processor for determining the gas volume fraction of the flow, in response to the sound measurement signal (column 5, line 15 – column 7, line 48; column 15, lines 21-26).

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B. With respect to Claims 3 and 8, Letton discloses that the process flow is a liquid having entrained gas (column 6, lines 22-38).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Letton, et al. (US 6,209,388) in view of Stephenson, et al. (US 6,776,054).

A. With respect to Claims 2 and 7, Letton discloses the claimed invention, except they do not disclose pressure sensors used to indicate a pressure disturbance within the pipe. Stephenson discloses a multi-phase flow meter including two pressure sensors 132, 134 at different axial locations along the pipe 112, each of the pressure sensors providing a respective pressure signal indicative of a pressure disturbance within the pipe at a corresponding axial position in order to measure fluid flow rate (column 5, line 26 – column 7, line 5). Since Letton and Stephenson are both from the field of endeavor, the purpose disclosed by Stephenson would have been recognized in the pertinent art of Letton. Therefore, at the time the invention was made, it would have been obvious to one having ordinary skill in the art to utilize pressure sensors in order to measure pressure disturbances within a pipe to indicate fluid flow rate.

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*Allowable Subject Matter*

6. Claims 4 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey D. Mack whose telephone number is (571) 272-2181. The examiner can normally be reached on M-F, 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on (571) 272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CDM

Corey D. Mack, Esq.  
Patent Examiner  
Art Unit 2855

September 28, 2004

  
EDWARD LEFKOWITZ  
SUPERVISORY PATENT EXAMINER  
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